IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 492 of 2005(H)

AGAINST THE ORDER DATED 24/11/04 IN E.A.244/04 & 265/04 IN EP.55/99 IN OS.558/1997 of MUNSIFF'S COURT, VADAKKANCHERRY

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PETITIONER:

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1. RAVEENDRANATHANUNNI, AGED 54 YEARS,
   S/O. SAVITHRI AMMA, NAMBILI HOUSE,
   PANJAL VILLAGE P.O., THALAPPILLY TALUK,
   THRISSUR DISTRICT.

2. THANKAMANI, W/O. RAVEENDRANATHANUNNI,
   NAMBILI HOUSE, PANJAL VILLAGE P.O.,
   THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT:

KAMALAKSHAN NAIR, S/O. VELLANDATH
KALLIANI AMMA, PANJAL VILLAGE, DESOM,
THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SMT.K.V.RESHMI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.492/05

APPENDIX

PETITIONERS' EXTS:

EXT.P1 – TRUE COPY OF EP DT.11.2.99.

EXT.P2 – TRUE COPY OF OBJECTION FILED BY PETR. IN E.A.244/04 DT.9.6.04.

EXT.P3 – TRUE COPY OF ORDER OF MUNSIFF, WADAKANCHERRY IN EA.244/04 IN EP.55/99 IN O.S.558/97 DT.24.11.04.

EXT.P4 – TRUE COPY OF SALE PROCLAMATION DT.17.12.04 ISSUED BY THE COURT BELOW.

EXT.P5 – TRUE COPY OF E.A.265/04 DT.9.6.04.

EXT.P6 – TRUE COPY OF OBJECTION DT.14.7.04 SUBMITTED BY RESPONDENT.

EXT.P7 – TRUE COPY OF ORDER IN E.A.265/04 IN EP.55/99 IN O.S.558/97 OF THE COURT BELOW.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.492 OF 2005

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DATED THIS THE 20th JULY, 2007

J U D G M E N T

The grievance which is projected by the judgment-debtors in this Writ Petition under Article 227 of the Constitution is that the execution court has turned down their request to have a portion of the property under attachment having a total extent of 15 cents retained by themselves so that there will be access to their residential properties situated on the back side. This Court, while admitting this Writ Petition, passed an interim order directing the petitioners to take all efforts to purchase the property which they want as pathway. The ground which is seriously urged by the petitioners against the proposal for settlement of proclamation was that the market value of the property is much more than what is shown in the draft sale proclamation. If that is a genuine ground, it is for the petitioners to find out a purchaser who will be prepared to purchase a portion of the property excluding the pathway for an amount equal to the decree-debt. I would have disposed of this Writ Petition issuing a direction in that regard. But Smt.K.V.Reshmi, counsel for the respondent submits that the decree-debt is around Rs.55,000/- and the petitioners have

already paid Rs.30,000/-. If that be so, it is open to the petitioners to pay off the balance also.

2. Accordingly I dispose of the Writ Petition directing that the order of stay presently passed will continue for another four months from today. It is open to the petitioners to pay off the balance decree-debt in whichever manner they choose. At any rate, the order of stay will not continue beyond four months.

(PIUS C.KURIAKOSE, JUDGE)

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